

ORDER NO. 1792

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman;
Mark Acton;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Priority Mail Contract 48 (MC2013-16)
Negotiated Service Agreement

Docket No. CP2013-15

ORDER CONDITIONALLY APPROVING AMENDMENT TO PRIORITY MAIL
CONTRACT 48 NEGOTIATED SERVICE AGREEMENT

(Issued July 25, 2013)

I. INTRODUCTION

The Postal Service proposes an amendment to Priority Mail Contract 48.¹ For the reasons discussed below, the Commission conditionally approves the Amendment.

¹ Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail Contract 48, July 12, 2013 (Notice). The Amendment is attached to the Notice and labeled as Attachment A (Amendment).

In Order No. 1548, the Commission approved Priority Mail Contract 48.² On July 12, 2013, the Postal Service filed notice of the Amendment, supporting financial information, and the certified statement required by 39 C.F.R. § 3015.5. Notice at 1. The Amendment changes the prices that apply to packages sent under Priority Mail Contract 48 as well as the parameters for packages considered “Contract Packages” under the contract. Notice, Attachment A at 1. The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. § 3633. *Id.* Attachment B. By its terms, the Amendment becomes effective one business day after the day that the Commission issues all necessary regulatory approval. *Id.* Attachment A at 1.

On July 16, 2013, the Commission issued an order reopening the docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.³ Contemporaneously, Chairman’s Information Request (CHIR) No. 1 was issued.⁴ In response, the Postal Service informed the Commission that a further amendment was necessary to clarify that Critical Mail letters and flats were no longer eligible for mailing under the contract.⁵ The Postal Service stated that it expects to file such further amendment within the next week. *Id.*

² See Docket Nos. MC2013-16 and CP2013-15, Order Adding Priority Mail Contract 48 to the Competitive Product List, November 19, 2012 (Order No. 1548).

³ Order No. 1779, Notice and Order Concerning Amendment to Priority Mail Contract 48, July 16, 2013.

⁴ Chairman’s Information Request No. 1, July 16, 2013.

⁵ Response of United States Postal Service to Chairman’s Information Request No. 1, July 22, 2013, at 2 (Response to CHIR No. 1).

II. COMMENTS

Comments were filed by the Public Representative.⁶ No other interested person submitted comments. The Public Representative reviewed the Amendment, the initial contract filed in Docket Nos. MC2013-16 and CP2013-15, and the financial model filed under seal. PR Comments at 2. The Public Representative concludes that the contract, as amended, should generate sufficient revenues in the first year to cover costs and thereby satisfy the requirements of 39 U.S.C. § 3633(a). *Id.*

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, the CHIR response and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that they meet applicable requirements of 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7. As part of its Notice, the Postal Service submitted a certified statement that the Amendment complies with the requirements of 39 U.S.C. § 3633(a). Notice, Attachment B. In addition, the Postal Service filed supporting revenue and cost data showing the contract, as amended, is expected to cover its costs.

However, the contract, as amended, contains contract prices for Critical Mail letters and flats in Paragraph I.F, even though such pieces would no longer be eligible for contract rates.⁷ In addition, Paragraph I.G establishes how contract prices, including those for Critical Mail, will be adjusted on an annual basis. *Id.* In its CHIR response, the Postal Service stated that “Paragraphs I.F and I.G should have been removed.” Response to CHIR No. 1 at 2. The Postal Service also stated that it expects to file a further amendment within the next week. *Id.*

⁶ Public Representative Comments on Postal Service Amendment to Priority Mail Contract 48, July 23, 2013 (PR Comments).

⁷ Docket Nos. MC2013-16 and CP2013-15, Request of the United States Postal Service to Add Priority Mail Contract 48 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors’ Decision, Contract, and Supporting Data, November 5, 2012, Attachment B at 2; Response to CHIR No. 1 at 2.

Given the Postal Service's representations, the Commission conditionally approves the Amendment subject to the Postal Service filing a further contract amendment that (1) removes Paragraph I.F from the contract, and (2) revises Paragraph I.G by removing the references to Paragraph I.F and Critical Mail Commercial Plus. Upon filing of such an amendment, the condition is satisfied and the Amendment is authorized.⁸ Under those circumstances, the Commission anticipates taking no further action in this proceeding.

If, however, the forthcoming contract amendment differs from the Commission's description (e.g., Paragraph I.G is removed in its entirety) or contains additional terms, the Commission will notice that filing for comment prior to making a finding on whether the conditions of this Order have been satisfied.

If the forthcoming contract amendment is not filed by July 31, 2013, on that date and every week thereafter, the Postal Service shall file a status report concerning the status of the forthcoming contract amendment until such amendment is filed. Such a report will allow an assessment of progress being made and reduce the possibility of unnecessary delay.

Other considerations. Within 30 days of the expiration of the Contract, as amended, the Postal Service shall file the annual (by contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the Contract. The information for the first contract year should be disaggregated to show costs, volumes, and revenues under the initial contract's qualifying packages and under the Amendment's qualifying packages.

In conclusion, the Commission conditionally approves the Amendment to Priority Mail Contract 48 subject to the filing of an additional amendment.

⁸ Since by its terms the Amendment "shall become effective one business day following the day on which the Commission issues all necessary regulatory approval," the Commission intends for the filing of the prescribed amendment in conjunction with this Order to serve as the "necessary" Commission approval.

IV. ORDERING PARAGRAPHS

It is ordered:

1. As set forth in the body of this Order, the Commission conditionally approves the Amendment to Priority Mail Contract 48 subject to the filing of an additional amendment.
2. If the additional amendment is not filed by July 31, 2013, on that date and every week thereafter, the Postal Service shall file a status report concerning the status of the amendment until such amendment is filed.
3. Within 30 days after Priority Mail Contract 48, as amended, terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the contract. For the first contract year, the filing should report the data associated with the initial contract's qualifying packages separate from the amended contract's qualifying packages.

By the Commission.

Shoshana M. Grove
Secretary